

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RANDALL QUESINBERRY

433 Smith Ln.

Londonderry, Ohio 45647

Plaintiff,

v.

PENN CREDIT CORPORATION

c/o CSC Lawyers Incorporating Service

(Corporation Service Company)

50 W. Broad Street, Suite 1800

Columbus, Ohio 43215,

Defendant.

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) Case No: 2:14-cv-71

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) JURY DEMAND REQUESTED

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) **CIVIL COMPLAINT**

) **(Unlawful Debt Collection Practices)**

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COMPLAINT

PLAINTIFF, Randall Quesinberry (Plaintiff), by his attorneys, KAHN AND ASSOCIATES, L.L.C., alleges the following against DEFENDANT, Penn Credit Corporation (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy," and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
3. Because Defendant conducts business in Ohio, personal jurisdiction is established.

4. Venue is proper pursuant to 28 *U.S.C. 1391(b)(2)*.

PARTIES

5. Plaintiff is a natural person who resides in the City of Londonderry, Ross County, Ohio and is allegedly obligated to pay a debt, and Plaintiff is a “consumer” as that term is defined by 15 *U.S.C. 1692a(3)*.
6. Pursuant to the definitions outlined in 15 *U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
7. Defendant is a Pennsylvania corporation and debt collector with an office in Harrisburg, Pennsylvania.
8. Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by 15 *U.S.C. § 1692a(6)*.
9. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

10. Defendant is seeking to collect an allegedly due and owed consumer debt incurred for personal, family, or household purposes. Upon information and belief, Defendant is attempting to collect a debt allegedly due and owed by the Plaintiff's ex-wife, Lorna Ruth Smith (SMITH).

11. Because this is not the Plaintiff's debt, Defendant is limited to contacting the Plaintiff only to seek contact information for SMITH.
12. Defendant places frequent and excessive calls to Plaintiff at telephone number 740.887.3580.
13. Plaintiff has repeatedly told Defendant to stop calling, yet Defendant continues to call the Plaintiff on a daily basis. Defendant continued to place these daily calls to Plaintiff until he blocked the Defendant.
14. Defendant is calling Plaintiff for the purposes of annoying or harassing him. Defendant knows, or has reason to know, Plaintiff has no information to provide about SMITH, yet Defendant continues to repeatedly call the Plaintiff.
15. Defendant has also placed calls to Plaintiff's elderly mother seeking information regarding Smith. Plaintiff has told Defendant to stop calling his mother, and that she has no information regarding SMITH, yet Defendant continues to place calls to Plaintiff's mother for the purposes of annoying or harassing Plaintiff.

COUNT I

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

16. Defendant violated the FDCPA based on the following:
 - a. Defendant violated §1692b(3) by, in a communication with a person other than the consumer, communicating with that person more than once unless requested to do so by that person, or without the reasonable belief that the earlier response was erroneous or incomplete and that the person now has correct or complete location information.
 - b. Defendant violated §1692d by engaging in conduct the natural

consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

- c. Defendant violated §1692d(5) by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

WHEREFORE, Plaintiff, Randall Quesinberry, respectfully requests judgment be entered against Defendant, for the following:

17. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
18. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
19. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, Randall Quesinberry, requests a jury trial in this case.

RESPECTFULLY SUBMITTED,

KAHN & ASSOCIATES, L.L.C.

/s/ J. Daniel Scharville

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